

CLOSED

U.S. District Court
District of New Hampshire (Concord)
CRIMINAL DOCKET FOR CASE #: 1:12-cr-00130-SM-1

Case title: USA v. McMenimen

Date Filed: 10/03/2012

Date Terminated: 02/11/2015

Assigned to: Judge Steven J.
McAuliffe

Defendant (1)

Frederick V. McMenimen, III
TERMINATED: 02/11/2015

represented by **Bjorn R. Lange**
Federal Defender's Office
The Ralph Pill Building
22 Bridge St
Concord, NH 03301
603 226-7360
Email: bjorn_lange@fd.org
LEAD ATTORNEY
ATTORNEY TO BE NOTICED
Designation: Public Defender or Community
Defender Appointment

William E. Christie
Shaheen & Gordon (Concord)
107 Storrs St
PO Box 2703
Concord, NH 03302-2703
603 225-7262
Email: wchristie@shaheengordon.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED
Designation: CJA Appointment

Pending Counts

18 U.S.C. § 1341 – Mail Fraud
(4)

18 U.S.C. § 1957 and 2 – Money
Laundering

Disposition

Defendant imprisoned for a total term of 42 months on each of Counts 4, 27, 29 through 31, all such terms to be served concurrently; 3 years supervised release on each of Counts 4, 27, 29 through 31, all such terms to run concurrently, with standard and special conditions; \$500.00 Special Assessment; Restitution in the amount of \$1,443,749.00. Defendant remanded to the custody of the US Marshal.

Defendant imprisoned for a total term of 42 months on each of Counts 4, 27, 29 through 31, all such

(27)

terms to be served concurrently; 3 years supervised release on each of Counts 4, 27, 29 through 31, all such terms to run concurrently, with standard and special conditions; \$500.00 Special Assessment; Restitution in the amount of \$1,443,749.00. Defendant remanded to the custody of the US Marshal.

26 U.S.C. § 7201 – Federal Income Tax Evasion (2008)
(29)

Defendant imprisoned for a total term of 42 months on each of Counts 4, 27, 29 through 31, all such terms to be served concurrently; 3 years supervised release on each of Counts 4, 27, 29 through 31, all such terms to run concurrently, with standard and special conditions; \$500.00 Special Assessment; Restitution in the amount of \$1,443,749.00. Defendant remanded to the custody of the US Marshal.

26 U.S.C. § 7201 – Federal Income Tax Evasion (2009)
(30)

Defendant imprisoned for a total term of 42 months on each of Counts 4, 27, 29 through 31, all such terms to be served concurrently; 3 years supervised release on each of Counts 4, 27, 29 through 31, all such terms to run concurrently, with standard and special conditions; \$500.00 Special Assessment; Restitution in the amount of \$1,443,749.00. Defendant remanded to the custody of the US Marshal.

26 U.S.C. § 7201 – Federal Income Tax Evasion (2010)
(31)

Defendant imprisoned for a total term of 42 months on each of Counts 4, 27, 29 through 31, all such terms to be served concurrently; 3 years supervised release on each of Counts 4, 27, 29 through 31, all such terms to run concurrently, with standard and special conditions; \$500.00 Special Assessment; Restitution in the amount of \$1,443,749.00. Defendant remanded to the custody of the US Marshal.

**Highest Offense Level
(Opening)**

Felony

Terminated Counts

18 U.S.C. § 1341 – Mail Fraud
(1–3)

18 U.S.C. § 1341 – Mail Fraud
(5)

18 U.S.C. § 2314 – Interstate Transportation of Goods Taken by Fraud
(6–18)

Disposition

Dismissed upon oral motion by the government.

Dismissed upon oral motion by the government.

Dismissed upon oral motion by the government.

18 U.S.C. § 1957 and 2 – Money
Laundering
(19–26)

Dismissed upon oral motion by the government.

18 U.S.C. § 1957 and 2 – Money
Laundering
(28)

Dismissed upon oral motion by the government.

Highest Offense Level
(Terminated)

Felony

Complaints

Disposition

None

Plaintiff

USA

represented by **William E. Morse**
US Attorney's Office (NH)
James C. Cleveland Federal Building
53 Pleasant St, 4th Flr
Concord, NH 03301-0001
603 225-1552
Fax: 603-225-1470
Email: william.morse@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Page	Docket Text
10/03/2012	<u>1</u>	17	INDICTMENT as to Frederick V. McMenimen, III (1) count(s) 1–5, 6–18, 19–28, 29, 30, 31. <i>Original document available in clerks office.</i> (vln) Modified on 10/4/2012 to remove "SEALED" (ko). (Entered: 10/04/2012)
10/03/2012	<u>3</u>		MOTION to Seal Case at Level I until defendant is taken into custody by USA as to Frederick V. McMenimen, III. (vln) (Entered: 10/04/2012)
10/03/2012			ENDORSED ORDER granting 3 Motion to Seal Case at Level I as to Frederick V. McMenimen III (1). Text of Order: Granted. So Ordered by Magistrate Judge Daniel J. Lynch. (vln) (Entered: 10/04/2012)
10/03/2012	<u>4</u>		Praecipe for Warrant by USA as to Frederick V. McMenimen, III. (vln) (Entered: 10/04/2012)
10/03/2012			Arrest Warrant Issued as to Frederick V. McMenimen, III. Original warrant and copies to US Marshal and US Probation. (vln) (Entered: 10/04/2012)
10/04/2012			Arrest of Frederick V. McMenimen, III. (ko) (Entered: 10/04/2012)
10/04/2012			NOTICE OF HEARING as to Frederick V. McMenimen, III. Initial Appearance/Arraignment set for 10/4/2012 at 02:00 PM before Magistrate Judge Landya B. McCafferty. (ko) (Entered: 10/04/2012)

10/04/2012		RESCHEDULING NOTICE OF HEARING as to Frederick V. McMenimen, III. Initial Appearance/Arraignment reset for 10/4/2012 at 03:45 PM before Magistrate Judge Landya B. McCafferty. (ko) (Entered: 10/04/2012)
10/04/2012	<u>5</u>	COLLATERAL RECEIPT no. 370 as to Frederick V. McMenimen, III for USA Passport issued to Frederick V. McMenimen, III. (vln) (Entered: 10/04/2012)
10/04/2012	<u>6</u>	Arrest Warrant Returned Executed on 10/4/2012 as to Frederick V. McMenimen, III. (vln) (Entered: 10/09/2012)
10/04/2012	<u>8</u>	ORDER APPOINTING FEDERAL DEFENDER as to Frederick V. McMenimen, III. Bjorn R. Lange for Frederick V. McMenimen, III appointed. Signed by Clerk James R. Starr.(kad) (Entered: 10/11/2012)
10/04/2012	<u>9</u>	MOTION to Appoint Counsel with Financial Declaration by Frederick V. McMenimen, III. <i>Original document available in clerks office.</i> (kad) (Entered: 10/11/2012)
10/04/2012		ENDORSED ORDER approving <u>9</u> Motion to Appoint Counsel as to Frederick V. McMenimen III (1). Text of Order: Request approved. Appoint counsel. So Ordered by Magistrate Judge Landya B. McCafferty. (kad) (Entered: 10/11/2012)
10/04/2012		Minute Entry for proceedings held before Magistrate Judge Landya B. McCafferty: INITIAL APPEARANCE and ARRAIGNMENT as to Frederick V. McMenimen III (1) Count 1-5,6-18,19-28,29,30,31 held on 10/4/2012. Defendant advised of rights & charges, waived reading of indictment, and pled not guilty. Court approves financial affidavit. Upon agreement of the parties, defendant released on conditions. Trial Date: 12/11/2012, 3 days. (Tape #3:56) (Govt Atty: William Morse) (Defts Atty: Bjorn Lange) (USP: Kevin Lavigne)(Total Hearing Time: :14) (kad) (Entered: 10/11/2012)
10/04/2012	<u>10</u>	ORDER Setting Conditions of Release as to Frederick V. McMenimen, III. So Ordered by Magistrate Judge Landya B. McCafferty. (kad) (Entered: 10/11/2012)
10/04/2012	<u>11</u>	COLLATERAL RECEIPT no. 0370 as to Frederick V. McMenimen, III for US Passport No. 490970413 issued to Frederick V. McMenimen, III. (kad) (Entered: 10/11/2012)
10/10/2012	<u>7</u>	Assented to MOTION for Protective Order (<i>with proposed order</i>) by USA as to Frederick V. McMenimen, III. (Morse, William) (Entered: 10/10/2012)
10/10/2012		ENDORSED ORDER granting <u>7</u> Motion for Protective Order as to Frederick V. McMenimen III (1). Text of Order: Granted; the proposed protective order is adopted as an order of the court. So Ordered by Judge Steven J. McAuliffe. (vln) (Entered: 10/10/2012)
10/11/2012		TRIAL NOTICE: Jury Selection/Trial set for two week period beginning 12/11/2012 09:30 AM before Judge Steven J. McAuliffe. Final Pretrial Conference set for 12/3/2012 11:00 AM before Judge Steven J. McAuliffe. JERS Statement due 12/3/2012. (vln) (Entered: 10/11/2012)
10/30/2012	<u>12</u>	Assented to MOTION to Continue Trial to on or after 3/12/13 (Waiver of Speedy Trial to be filed conventionally) by Frederick V. McMenimen, III. Waiver of Speedy Trial due 11/9/2012. (Lange, Bjorn) (Entered: 10/30/2012)

11/01/2012	<u>13</u>	ORDER granting <u>12</u> Motion to Continue Trial in the interest of justice as to Frederick V. McMenimen III (1). So Ordered by Judge Steven J. McAuliffe. Final Pretrial Conference set for 3/8/2013 03:30 PM before Judge Steven J. McAuliffe. JERS Statement due 3/8/2013. Jury Selection/Trial set for two week period beginning 3/19/2013 09:30 AM before Judge Steven J. McAuliffe. Waiver of Speedy Trial due 11/9/2012. (vln) (Entered: 11/02/2012)
11/06/2012	<u>14</u>	WAIVER of Speedy Trial by Frederick V. McMenimen, III. (vln) (Entered: 11/07/2012)
03/04/2013	<u>17</u>	Assented to MOTION to Continue Trial to on or after 5/7/13 (Waiver of Speedy Trial to be filed conventionally) by Frederick V. McMenimen, III. Waiver of Speedy Trial due 3/14/2013. (Lange, Bjorn) (Entered: 03/04/2013)
03/04/2013		RESCHEDULING NOTICE OF HEARING as to Frederick V. McMenimen, III. Final Pretrial Conference reset for 3/8/2013 10:30 AM before Judge Steven J. McAuliffe. (vln) (Entered: 03/04/2013)
03/05/2013	<u>18</u>	ORDER granting <u>17</u> Motion to Continue Trial in the interest of justice as to Frederick V. McMenimen III (1). So Ordered by Judge Steven J. McAuliffe. Final Pretrial Conference set for 5/10/2013 10:30 AM before Judge Steven J. McAuliffe. JERS Statement due 5/3/2013. Jury Selection/Trial set for two week period beginning 5/21/2013 09:30 AM before Judge Steven J. McAuliffe. Waiver of Speedy Trial due 3/18/2013. (vln) (Entered: 03/05/2013)
03/06/2013	<u>19</u>	WAIVER of Speedy Trial by Frederick V. McMenimen, III. (vln) (Entered: 03/07/2013)
04/12/2013	<u>23</u>	MOTION on Scheduling of Competency Hearing by Frederick V. McMenimen, III. Follow up on Objection on 4/29/2013. (Lange, Bjorn) (Entered: 04/12/2013)
04/15/2013		ENDORSED ORDER granting <u>23</u> MOTION on Scheduling of Competency Hearing as to Frederick V. McMenimen III (1). <i>Text of Order: Granted; the clerk will schedule a hearing upon Dr. Drukesteinis's completion of his evaluation and defense counsel's return.</i> So Ordered by Judge Steven J. McAuliffe. (vln) (Entered: 04/16/2013)
04/16/2013		NOTICE OF HEARING as to Frederick V. McMenimen, III. Competency Hearing set for 5/1/2013 10:30 AM before Judge Steven J. McAuliffe. (vln) (Entered: 04/16/2013)
04/25/2013	<u>24</u>	Psychiatric Report Received (Sealed Level I) as to Frederick V. McMenimen, III. (Attachments: # <u>1</u> Drukesteinis CV)(vln) (Entered: 04/26/2013)
04/27/2013	<u>25</u>	Assented to MOTION to Continue Hearing & Trial by Frederick V. McMenimen, III. (Lange, Bjorn) (Entered: 04/27/2013)
04/29/2013		ENDORSED ORDER granting <u>25</u> Assented to MOTION to Continue Hearing & Trial as to Frederick V. McMenimen III (1). <i>Text of Order: Granted.</i> So Ordered by Judge Steven J. McAuliffe. Competency Hearing set for 5/7/2013 09:30 AM before Judge Steven J. McAuliffe. (vln) (Entered: 04/29/2013)
04/29/2013	<u>26</u>	

		ORDER as to Frederick V. McMenimen, III granting <u>25</u> Assented to MOTION to Continue Hearing & Trial ., (Final Pretrial Conference set for 6/7/2013 03:00 PM before Judge Steven J. McAuliffe. Jury Trial set for two-week period beginning 6/18/2013 09:30 AM before Judge Steven J. McAuliffe.) So Ordered by Judge Steven J. McAuliffe. (vln) (Entered: 04/29/2013)
05/03/2013		RESCHEDULING NOTICE OF HEARING as to Frederick V. McMenimen, III. Competency Hearing rescheduled for 10:00 AM on 5/7/2013 before Judge Steven J. McAuliffe. (jab) (Entered: 05/03/2013)
05/07/2013	<u>27</u>	MOTION to Continue Trial to on or after 9/10/13 (Waiver of Speedy Trial to be filed conventionally) by Frederick V. McMenimen, III. Follow up on Objection on 5/24/2013. Waiver of Speedy Trial due 5/17/2013. (Lange, Bjorn) (Entered: 05/07/2013)
05/07/2013		Minute Entry for proceedings held before Judge Steven J. McAuliffe: COMPETENCY HEARING as to Frederick V. McMenimen, III held on 5/7/2013. Continued for 30 days. (Witness(es) Appearing: Dr. Albert Druktenis). (Court Reporter: Diane Churas) (Govt Atty: William Morse) (Defts Atty: Bjorn Lange)(Total Hearing Time: 0:50) (vln) (Entered: 05/07/2013)
05/07/2013		NOTICE OF HEARING as to Frederick V. McMenimen, III. Competency Hearing set for 6/12/2013 02:00 PM before Judge Steven J. McAuliffe. (vln) (Entered: 05/07/2013)
05/07/2013	<u>28</u>	WAIVER of Speedy Trial by Frederick V. McMenimen, III. (vln) (Entered: 05/08/2013)
05/09/2013	<u>29</u>	RESPONSE to Motion by USA as to Frederick V. McMenimen, III re <u>27</u> MOTION to Continue Trial to on or after 9/10/13 (Waiver of Speedy Trial to be filed conventionally) . (Morse, William) (Entered: 05/09/2013)
05/24/2013	<u>30</u>	WAIVER of Speedy Trial by Frederick V. McMenimen, III. (vln) (Entered: 05/28/2013)
06/06/2013	<u>31</u>	ORDER granting <u>27</u> Motion to Continue Trial in the interest of justice as to Frederick V. McMenimen III (1). Continuance Limited to approximately 30 days, as the calendar accommodates. However, the issue will be revisited following the supplemental hearing currently scheduled for June 12, 2013. So Ordered by Judge Steven J. McAuliffe. Final Pretrial Conference set for 7/12/2013 02:00 PM before Judge Steven J. McAuliffe. Jury Selection/Trial set for two week period beginning 7/23/2013 09:30 AM before Judge Steven J. McAuliffe. (vln) (Entered: 06/06/2013)
06/06/2013	<u>32</u>	Psychiatric Report Received (Sealed Level I) as to Frederick V. McMenimen, III. (vln) (Entered: 06/06/2013)
06/12/2013		Minute Entry for proceedings held before Judge Steven J. McAuliffe: COMPETENCY HEARING as to Frederick V. McMenimen, III held on 6/12/2013. Defendant found incompetent to stand trial. (Court Reporter: Susan Bateman) (Govt Atty: William Morse) (Defts Atty: Bjorn Lange)(Total Hearing Time: 0:40) (vln) (Entered: 06/12/2013)
06/12/2013	<u>33</u>	ORDER as to Frederick V. McMenimen, III. Defendant is committed to the custody of the Attorney General for hospitalization and treatment. So

		Ordered by Judge Steven J. McAuliffe. (vln) (Entered: 06/12/2013)
06/18/2013	<u>34</u>	<p>TRANSCRIPT of Proceedings as to Frederick V. McMenimen, III for Competency Hearing held on June 12, 2013. Court Reporter: Susan Bateman, Telephone # 603-225-1453. Transcript is available for public inspection, but may not be copied or otherwise reproduced, at the Clerk's Office for a period of 90 days. Additionally, only attorneys of record and pro se parties with an ECF login and password who purchase a transcript from the court reporter will have access to the transcript through PACER during this 90-day period. If you would like to order a copy, please contact the court reporter at the above listed phone number.</p> <p>NOTICE: Any party who requests an original transcript has 21 days from service of this notice to determine whether it is necessary to redact any personal identifiers and, if so, to electronically file a Redaction Request.</p> <p>Redaction Request Follow Up 7/12/2013. Redacted Transcript Follow Up 7/22/2013. Release of Transcript Restriction set for 9/16/2013. (vln) (Entered: 06/18/2013)</p>
06/25/2013	<u>35</u>	MOTION to Vacate <u>33</u> Order of Competency by Frederick V. McMenimen, III. Follow up on Objection on 7/12/2013. (Attachments: # <u>1</u> Exhibit Letter, # <u>2</u> Exhibit Letter, # <u>3</u> Exhibit Letter) (Lange, Bjorn) (Entered: 06/25/2013)
07/08/2013	<u>36</u>	OBJECTION by USA as to Frederick V. McMenimen, III re <u>35</u> MOTION to Vacate <u>33</u> Order of Competency (Morse, William) (Additional attachment(s) added on 7/9/2013: # <u>1</u> Transcript of Competency Hearing, # <u>2</u> Legal Resource Guide to BOP) (vln). Modified on 7/9/2013 to add exhibits 1 and 2 (vln). (Entered: 07/08/2013)
07/18/2013		ENDORSED ORDER denying <u>35</u> Motion to Vacate <u>33</u> Order of Competency as to Frederick V. McMenimen III (1). Text of Order: Denied. So Ordered by Judge Steven J. McAuliffe. (jab) (Entered: 07/18/2013)
08/23/2013	<u>37</u>	Assented to MOTION Immediate Release from Custody by Frederick V. McMenimen, III. (Lange, Bjorn) (Entered: 08/23/2013)
08/23/2013	<u>38</u>	ORDER granting <u>37</u> Assented to MOTION for Immediate Release from Custody as to Frederick V. McMenimen III (1). So Ordered by Judge Steven J. McAuliffe. (jab) (Entered: 08/23/2013)
09/16/2013	<u>40</u>	Psychiatric Report Received (Sealed Level I) as to Frederick V. McMenimen, III. (vln) (Entered: 09/17/2013)
09/17/2013	<u>39</u>	MOTION to Seal Document at Level I by Frederick V. McMenimen, III. Follow up on Objection on 10/4/2013. (Lange, Bjorn) (Entered: 09/17/2013)
09/17/2013	<u>41</u>	Partially Assented to MOTION for Order to Determine Competency to Stand Trial <i>and Set Trial Date</i> by USA as to Frederick V. McMenimen, III. Follow up on Objection on 10/4/2013. (Morse, William) (Entered: 09/17/2013)
09/17/2013	<u>42</u>	OBJECTION by USA as to Frederick V. McMenimen, III re <u>39</u> MOTION to Seal Document at Level I <i>and Limit Disclosure</i> . (Morse, William) (Entered: 09/17/2013)
09/19/2013		

		ENDORSED ORDER granting <u>39</u> Motion to Seal Document <u>40</u> Psychiatric Report at Level I as to Frederick V. McMenimen III (1). <i>Text of Order: Granted, with the additional provision related to disclosure proposed by the government.</i> So Ordered by Judge Steven J. McAuliffe. (jab) (Entered: 09/19/2013)
09/19/2013	43	ENDORSED ORDER deferring ruling on <u>41</u> Motion for Order to Determine Competency to Stand Trial as to Frederick V. McMenimen III (1). <i>Text of Order: the clerk will schedule a hearing and pretrial status conference.</i> So Ordered by Judge Steven J. McAuliffe. (jab) (Entered: 09/19/2013)
09/24/2013		NOTICE OF HEARING as to Frederick V. McMenimen, III. Competency Hearing set for 10/15/2013 11:00 AM before Judge Steven J. McAuliffe. Pretrial Status Conference set for 10/15/2013 11:00 AM before Judge Steven J. McAuliffe. (jab) (Entered: 09/24/2013)
10/16/2013		Minute Entry for proceedings held before Judge Steven J. McAuliffe: COMPETENCY HEARING as to Frederick V. McMenimen, III held on 10/15/2013. Defendant found competent to stand trial. STATUS CONFERENCE as to Frederick V. McMenimen, III held on 10/15/2013. Trial tentatively set for 1/22/2014. Parties to file a joint motion to continue trial. (Court Reporter: Diane Churas) (Govt Atty: William Morse) (Defts Atty: Bjorn Lange) (Total Hearing Time: 0:40) (vln) (Entered: 10/16/2013)
10/16/2013	<u>44</u>	Final Pretrial Order. Trial will begin with jury selection at 9:30 a.m. on January 22, 2014; however, counsel may propose a different, mutually convenient, starting date in February or March. Exhibit List due by 1/15/2014. Witness List due by 1/15/2014. Motions due by 1/22/2014. Jury Selection/Trial set for two week period beginning 1/22/2014 09:30 AM before Judge Steven J. McAuliffe. So Ordered by Judge Steven J. McAuliffe. (vln) (Entered: 10/18/2013)
10/16/2013		ENDORSED ORDER granting <u>41</u> Motion for Order to Determine Competency to Stand Trial as to Frederick V. McMenimen III (1). <i>Text of Order: Granted.</i> So Ordered by Judge Steven J. McAuliffe. (vln) (Entered: 10/18/2013)
10/18/2013		TRIAL NOTICE: Jury Selection/Trial set for two week period beginning 1/22/2014 09:30 AM before Judge Steven J. McAuliffe. JERS Statement due 1/15/2014. (vln) (Entered: 10/18/2013)
10/24/2013	<u>45</u>	Assented to Motion for Transcript at Government Expense by Frederick V. McMenimen, III. (Lange, Bjorn) (Entered: 10/24/2013)
10/24/2013	<u>46</u>	Joint Assented to MOTION to Continue Trial to trial period beginning March 18, 2014 by defendant and (Waiver of Speedy Trial to be filed conventionally) by USA as to Frederick V. McMenimen, III. Waiver of Speedy Trial due 11/4/2013. (Morse, William) (Entered: 10/24/2013)
10/26/2013	<u>47</u>	ORDER granting <u>46</u> Motion to Continue Trial in the interest of justice as to Frederick V. McMenimen III (1). So Ordered by Judge Steven J. McAuliffe. Exhibit List due by 3/11/2014. Witness List due by 3/11/2014. Final Pretrial Conference set for 3/7/2014 04:30 PM before Judge Steven J. McAuliffe. JERS Statement due 3/7/2014. Jury Selection/Trial set for two

		week period beginning 3/18/2014 09:30 AM before Judge Steven J. McAuliffe. (vln) (Entered: 10/28/2013)
11/04/2013	<u>48</u>	WAIVER of Speedy Trial by Frederick V. McMenimen, III. (vln) (Entered: 11/04/2013)
11/08/2013		ENDORSED ORDER granting <u>45</u> Motion for Transcript at Government Expense as to Frederick V. McMenimen III (1). Text of Order: Granted. So Ordered by Judge Steven J. McAuliffe. (vln) (Entered: 11/08/2013)
02/21/2014	<u>54</u>	Assented to MOTION to Exceed Page Limit by USA as to Frederick V. McMenimen, III. (Morse, William) (Entered: 02/21/2014)
02/21/2014	<u>55</u>	MOTION in Limine re: No. 1 FOR AN ORDER PRECLUDING UNAUTHENTICATED FORGERIES AND FABRICATIONS AND HEARSAY by USA as to Frederick V. McMenimen, III. HEARING REQUESTED. Follow up on Objection on 3/10/2014. (Attachments: # <u>1</u> Attachment 1A–Custom Financial LLC Agreement(Wagstaff)–09/13/03, # <u>2</u> Attachment 1.B–notice of payment agreement(Wagstaff)–04/06/2010, # <u>3</u> Attachment 1.C–notice of final payment agreement(Wagstaff)–05/25/2010, # <u>4</u> Attachment 1.D–final transaction agreement–(Wagstaff)08/14/2011, # <u>5</u> Attachment 1.E–Agreement of final payment(Meskhes)–10/19/2008, # <u>6</u> Attachment 1.F–Modified Agreement(Beals)–05/19/2011, # <u>7</u> Memorandum of Law, # <u>8</u> Exhibit 1.A–Certificate of Authenticity–Custom Financial LLC–09/06/2012, # <u>9</u> Exhibit 1.B–Certificate of Authenticity–PSB Sports LLC–09/06/2012, # <u>10</u> Exhibit Exhibit 2–Findings of Fact, Rulings of Law and Order of Plaintiff's Chapter 93 Claim, Justice Hinkle–02/12/2010, # <u>11</u> Exhibit Exhibit 3.A–Photocopy of check#1029–, # <u>12</u> Exhibit Exhibit 3.B–Official Bank Copy of Check#1029, # <u>13</u> Exhibit Exhibit 3.C–Altered Internet Bank Statement, # <u>14</u> Exhibit Exhibit 3.D–Official Bank Statement) (Morse, William) (Entered: 02/21/2014)
02/24/2014		NOTICE of ECF Filing Error re: <u>55</u> MOTION in Limine re: No. 1 FOR AN ORDER PRECLUDING UNAUTHENTICATED FORGERIES AND FABRICATIONS AND HEARSAY filed by USA. Motion is not pdf text searchable. NO ACTION REQUIRED – FOR INFORMATIONAL PURPOSES ONLY AND MERELY INTENDED TO EDUCATE ALL PARTIES IN THE CASE. If the filing party has any questions concerning this notice, please contact the judge's case manager at 603–225–1587. (jab) (Entered: 02/24/2014)
02/24/2014	<u>56</u>	MOTION for Lange to Withdraw as Attorney by Frederick V. McMenimen, III. HEARING REQUESTED. Follow up on Objection on 3/13/2014. (Lange, Bjorn) (Entered: 02/24/2014)
02/24/2014		ENDORSED ORDER granting <u>54</u> Assented to MOTION to Exceed Page Limit by USA as to Frederick V. McMenimen III (1). Text of Order: Granted. So Ordered by Judge Steven J. McAuliffe. (jab) (Entered: 02/24/2014)
02/25/2014	<u>57</u>	OBJECTION by USA as to Frederick V. McMenimen, III re <u>56</u> MOTION for Lange to Withdraw as Attorney . (Morse, William) (Entered: 02/25/2014)
02/28/2014		NOTICE OF HEARING ON MOTION as to Frederick V. McMenimen, III re: <u>56</u> MOTION for Attorney Lange to Withdraw as Attorney . Motion Hearing set

		for 3/4/2014 10:00 AM before Judge Steven J. McAuliffe. (jab) (Entered: 02/28/2014)
03/04/2014		Minute Entry for proceedings held before Judge Steven J. McAuliffe: MOTION HEARING as to Frederick V. McMenimen, III held on 3/4/2014 re <u>56</u> MOTION for Attorney Lange to Withdraw as Counsel. Court's voir dire with Attorney Lange; government's objection to motion and request that the court continues the trial for 30–60 days. Defendant McMenimen reads a statement to the court; government's objection to the defendant's request that Atty Lange be allowed to withdraw. Courtroom cleared for ex parte portion of hearing. Government returns. Court denies motion for Attorney Lange to withdraw; court to appoint co–counsel in this matter, and court continues trial to August 18, 2014. Order to issue. (Court Reporter: Susan Bateman) (Govt Atty: William Morse) (Defts Atty: Bjorn Lange)(Total Hearing Time: 43 minutes) (jab) (Entered: 03/04/2014)
03/04/2014	<u>58</u>	ORDER denying <u>56</u> Motion to Withdraw as Attorney as to Frederick V. McMenimen III (1). The Court finds that the ends of justice served by granting a continuance outweigh the best interest of the public and the defendant in a speedy trial, 18 U.S.C. § 3161(h)(7)(A) and (B). Trial is rescheduled for the two–week period of August 19, 2014. The Court will appoint co–counsel in this matter. So Ordered by Judge Steven J. McAuliffe. (jab) (Entered: 03/04/2014)
03/06/2014		TRIAL NOTICE: Final Pretrial Conference reset for 8/6/2014 10:00 AM before Judge Steven J. McAuliffe. JERS Statement due 8/12/2014. Jury Selection/Trial reset for two week period beginning 8/19/2014 09:30 AM before Judge Steven J. McAuliffe. (jab) (Entered: 03/06/2014)
03/13/2014	<u>59</u>	CJA 20 as to Frederick V. McMenimen, III: Appointment of Attorney William E. Christie as Co–Counsel for Frederick V. McMenimen, III for Criminal Case representation. Assignment accepted on 03/13/2014. NOTICE: COUNSEL SHALL PRINT AND SUBMIT COMPLETED VOUCHER FOR PAYMENT AT APPROPRIATE TIME. ORDER Signed by Daniel J. Lynch, Clerk. Follow up on submission of CJA Voucher on 9/12/2014. (Attachments: # <u>1</u> CJA 20 Attorney Fact Sheet)(jab) (Entered: 03/13/2014)
04/18/2014	<u>60</u>	TRANSCRIPT of Proceedings as to Frederick V. McMenimen, III for Motion Hearing held on March 4, 2014. Court Reporter: Susan Bateman, Telephone # 603 225–1453. Transcript is available for public inspection, but may not be copied or otherwise reproduced, at the Clerk's Office for a period of 90 days. Additionally, only attorneys of record and pro se parties with an ECF login and password who purchase a transcript from the court reporter will have access to the transcript through PACER during this 90–day period. If you would like to order a copy, please contact the court reporter at the above listed phone number. NOTICE: Any party who requests an original transcript has 21 days from service of this notice to determine whether it is necessary to redact any personal identifiers and, if so, to electronically file a Redaction Request. Redaction Request Follow Up 5/12/2014. Redacted Transcript Follow Up 5/22/2014. Release of Transcript Restriction set for 7/17/2014. (jab) (Entered:

		04/21/2014)
07/17/2014	<u>63</u>	Assented to MOTION to Continue Trial to October 21, 2014 (Waiver of Speedy Trial to be filed conventionally) by Frederick V. McMenimen, III. Waiver of Speedy Trial due 7/28/2014. (Christie, William) (Entered: 07/17/2014)
07/23/2014	<u>64</u>	ORDER granting in light of the prosecution's assent <u>63</u> Assented to Motion to Continue Trial in the interest of justice as to Frederick V. McMenimen III (1). The parties should not expect additional continuances absent extraordinary circumstances. So Ordered by Judge Steven J. McAuliffe. Final Pretrial Conference reset for 10/23/2014 04:00 PM before Judge Steven J. McAuliffe. JERS Statement due 10/28/2014. Jury Selection/Trial set for two week period beginning 11/4/2014 09:30 AM before Judge Steven J. McAuliffe. Waiver of Speedy Trial due 8/4/2014. (jab) (Entered: 07/24/2014)
08/04/2014	<u>65</u>	(Copy) of WAIVER of Speedy Trial by Frederick V. McMenimen, III. (Original will be filed upon receipt.) (jab) (Additional attachment(s) added on 8/14/2014: # <u>1</u> Waiver of Speedy Trial with Original Signature) (jab). (Entered: 08/04/2014)
08/31/2014	<u>66</u>	RESPONSE to Motion by Frederick V. McMenimen, III re <u>55</u> MOTION in Limine re: No. 1 FOR AN ORDER PRECLUDING UNAUTHENTICATED FORGERIES AND FABRICATIONS AND HEARSAY . (Attachments: # <u>1</u> Exhibit 2007 Letter to IRS, # <u>2</u> Exhibit Request for Disbursement)(Lange, Bjorn) (Entered: 08/31/2014)
09/08/2014		ENDORSED ORDER denying without prejudice <u>55</u> MOTION in Limine re: No. 1 FOR AN ORDER PRECLUDING UNAUTHENTICATED FORGERIES AND FABRICATIONS AND HEARSAY as to Frederick V. McMenimen III (1). <i>Text of Order: Denied, without prejudice to the government's interposing appropriate objections at the time of trial, when the evidentiary context will be clear.</i> So Ordered by Judge Steven J. McAuliffe. (jab) (Entered: 09/08/2014)
09/25/2014	<u>67</u>	Assented to MOTION for Issuance of Trial Subpoenas by Frederick V. McMenimen, III. (Lange, Bjorn) (Entered: 09/25/2014)
09/29/2014		ENDORSED ORDER granting <u>67</u> Assented to MOTION for Issuance of Trial Subpoenas as to Frederick V. McMenimen III (1). <i>Text of Order: Granted.</i> So Ordered by Judge Steven J. McAuliffe. (jab) (Entered: 09/29/2014)
10/06/2014		RESCHEDULING NOTICE OF HEARING as to Frederick V. McMenimen, III. Final Pretrial Conference rescheduled for 10:00 AM on 10/23/2014 before Judge Steven J. McAuliffe. (jab) (Entered: 10/06/2014)
10/16/2014	<u>70</u>	MOTION in Limine re: Attorney Evidence by Frederick V. McMenimen, III. HEARING REQUESTED. Follow up on Objection on 11/3/2014. (Lange, Bjorn) (Entered: 10/16/2014)
10/19/2014	<u>71</u>	MOTION for Subpoena for for Subpoena Duces Tecum – Prudential by Frederick V. McMenimen, III. Follow up on Objection on 11/6/2014. Notice to Government Attorney – If this motion requests a subpoena for personal or confidential information about a victim, pursuant to Fed. R. Crim. P. 17(c)(3),

		the government shall immediately provide the victim with notice of this motion. Ex parte motions are exempt from this requirement. (Lange, Bjorn) (Entered: 10/19/2014)
10/20/2014		ENDORSED ORDER denying without prejudice <u>70</u> MOTION in Limine re: Attorney Evidence as to Frederick V. McMenimen III (1). <i>Text of Order: The motion in limine is denied, without prejudice to interposing appropriate objections at trial, when the evidentiary context is clear. So Ordered by Judge Steven J. McAuliffe. (jab)</i> (Entered: 10/21/2014)
10/22/2014		ENDORSED ORDER granting <u>71</u> Motion for Subpoena as to Frederick V. McMenimen III (1). <i>Text of Order: Granted. However, defense counsel shall endeavor to minimize the burden on the third party, to include obtaining certifications of authenticity as business records or other admissible documents in lieu of personal appearance by a keeper of the records and shall communicate this obligation to the third party or counsel to the third party.</i> So Ordered by Judge Steven J. McAuliffe. (jab) (Entered: 10/22/2014)
10/22/2014	<u>72</u>	Proposed Jury Instructions by USA as to Frederick V. McMenimen, III.(Morse, William) (Entered: 10/22/2014)
10/22/2014	<u>73</u>	Proposed Voir Dire by USA as to Frederick V. McMenimen, III.(Morse, William) (Entered: 10/22/2014)
10/23/2014		Minute Entry for proceedings held before Judge Steven J. McAuliffe: FINAL PRETRIAL CONFERENCE as to Frederick V. McMenimen, III held on 10/23/2014. Order to Issue. (Govt Atty: Willialm Morse) (Defts Atty: Bjorn Lange, William Christie)(Total Hearing Time: 38 minutes)(CJA Time: 48 minutes) (jab) (Entered: 10/23/2014)
10/23/2014	<u>74</u>	Final Pretrial Order. Exhibits (paper and data storage devices for JERS), Exhibit and Witness Lists due by 10/28/2014. Motions in Limine due by 10/28/2014; responses due by 11/3/2014. Proposed voir dire and requests for jury instructions deadline set for 11/4/2014. Jury Selection 11/4/2014 09:30 AM before Judge Steven J. McAuliffe. Jury Trial/evidence to commence 11/5/2014 09:00 AM before Judge Steven J. McAuliffe. So Ordered by Judge Steven J. McAuliffe. (jab) (Entered: 10/23/2014)
10/28/2014	<u>75</u>	Statement Regarding Use of JERS During Trial by USA as to Frederick V. McMenimen, III.(Morse, William) (Entered: 10/28/2014)
10/28/2014	<u>76</u>	FINAL WITNESS LIST by USA as to Frederick V. McMenimen, III.(Morse, William) (Entered: 10/28/2014)
10/29/2014	<u>77</u>	FINAL WITNESS LIST by Frederick V. McMenimen, III.(Lange, Bjorn) (Entered: 10/29/2014)
10/30/2014	<u>78</u>	EXHIBIT List. (Lange, Bjorn) (Entered: 10/30/2014)
10/30/2014		NOTICE OF HEARING as to Frederick V. McMenimen, III. Change of Plea Hearing set for 10/31/2014 10:00 AM before Judge Steven J. McAuliffe. NOTICE: For cost containment purposes, the court prefers that the USPO conduct the PSR interview immediately following the COP hearing. Thus, prior to the COP hearing, a USPO may contact counsel for the purpose of scheduling the PSR interview after the COP hearing. (jab) (Entered: 10/30/2014)

10/31/2014	<u>79</u>	PLEA AGREEMENT as to Frederick V. McMenimen, III. (jab) (Entered: 10/31/2014)
10/31/2014		Minute Entry for proceedings held before Judge Steven J. McAuliffe: CHANGE OF PLEA HEARING held on 10/31/2014 as to Frederick V. McMenimen III (1): Defendant sworn and advised of rights/charges. No objection to offer of proof. Defendant enters guilty pleas as to Counts 4, 27, 29, 30, and 31. Court accepts guilty pleas. Court defers acceptance of the stipulations as to the specific sentence and dismissal of remaining counts until the time of sentencing. Bail continued as previously set; defendant stipulates to detention commencing on 11/12/2014. (Court Reporter: Susan Bateman) (Govt Atty: William Morse) (Defts Atty: William Christie, Bjorn Lange) (USP: Sean Buckley)(Total Hearing Time: 39 minutes)(CJA Time: 49 minutes) (jab) (Entered: 10/31/2014)
10/31/2014		NOTICE OF HEARING as to Frederick V. McMenimen, III. Sentencing set for 2/11/2015 10:00 AM before Judge Steven J. McAuliffe. <i>The court has allotted 1 hour for the hearing. Please contact the court immediately if you anticipate the hearing will exceed the allotted time. Any motion seeking a departure or variance, as well as any sentencing memorandum, shall be filed 10 days prior to the sentencing date. Any response shall be filed 4 days prior to sentencing date.</i> (jab) (Entered: 10/31/2014)
11/06/2014	<u>80</u>	Assented to MOTION to Change Surrender Date by Frederick V. McMenimen, III. (Lange, Bjorn) (Entered: 11/06/2014)
11/08/2014		ENDORSED ORDER granting <u>80</u> Assented to MOTION to Change Surrender Date to December 1, 2014 as to Frederick V. McMenimen III (1). Text of Order: Granted. So Ordered by Judge Steven J. McAuliffe. (jab) (Entered: 11/10/2014)
02/03/2015	<u>84</u>	Assented to MOTION to Extend Time Deadline for Filing Sentencing Pleadings by Frederick V. McMenimen, III. (Lange, Bjorn) (Entered: 02/03/2015)
02/04/2015		ENDORSED ORDER granting <u>84</u> Motion to Extend Time to File Sentencing Pleadings to 2/6/15 as to Frederick V. McMenimen III (1). Text of Order: Granted. So Ordered by Judge Steven J. McAuliffe. (dae) (Entered: 02/04/2015)
02/06/2015	<u>85</u>	SENTENCING MEMORANDUM by USA as to Frederick V. McMenimen, III. (Morse, William) (Entered: 02/06/2015)
02/06/2015	<u>86</u>	SENTENCING MEMORANDUM by Frederick V. McMenimen, III. (Lange, Bjorn) (Entered: 02/06/2015)
02/11/2015	<u>88</u>	ACKNOWLEDGMENT of Sentencing Options by Frederick V. McMenimen, III. (jab) (Entered: 02/11/2015)
02/11/2015		Minute Entry for proceedings held before Judge Steven J. McAuliffe: SENTENCING held on 2/11/2015 for Frederick V. McMenimen III (1): Sentenced on Counts 4, 27, 29 – 31. Defendant states objections to PSR. Court sustained objection to Paragraph 63 (Trudell paragraph); court overrules objection re: lack of 3rd point for acceptance of responsibility. Court accepts 11(c)(1)(C) agreed upon sentence as reasonable. Defendant requests court

			recommendation for BOP designation to FMC Devens. Court granted oral motion by government to dismiss remaining counts (5,6–18,19–26,28), there being no objection. Fine waived due to inability to pay. Appeal rights to defendant. (Court Reporter: Diane Churas) (Govt Atty: William Morse) (Defts Atty: Bjorn Lange, William Christie) (USP: Sean Buckley)(Total Hearing Time: 49 minutes)(CJA Time: 1 hr 3 minutes) (jab) (Entered: 02/11/2015)
02/11/2015	<u>89</u>	29	JUDGMENT as to Frederick V. McMenimen, III(1): Counts 4, 27, 29–31: Defendant imprisoned for a total term of 42 months on each of Counts 4, 27, 29–31, all such terms to be served concurrently; 3 years supervised release on each of Counts 4, 27, 29–31, all such terms to run concurrently, with standard and special conditions; \$500.00 Special Assessment; Restitution in the amount of \$1,443,749.00. Counts 1–3, 5, 6–18, 9–26, and 28: Dismissed upon oral motion by the government. Defendant remanded to the custody of the US Marshal. So Ordered by Judge Steven J. McAuliffe. (jab) (Entered: 02/12/2015)
02/17/2015	<u>91</u>		<p>EXCERPT OF TRANSCRIPT of Proceedings as to Frederick V. McMenimen, III for Sentencing Hearing held on February 11, 2015. Court Reporter: Diane Churas, Telephone # 603 225–1442. Transcript is available for public inspection, but may not be copied or otherwise reproduced, at the Clerk's Office for a period of 90 days. Additionally, only attorneys of record and pro se parties with an ECF login and password who purchase a transcript from the court reporter will have access to the transcript through PACER during this 90–day period. If you would like to order a copy, please contact the court reporter at the above listed phone number.</p> <p>NOTICE: Any party who requests an original transcript has 21 days from service of this notice to determine whether it is necessary to redact any personal identifiers and, if so, to electronically file a Redaction Request.</p> <p>Redaction Request Follow Up 3/13/2015. Redacted Transcript Follow Up 3/23/2015. Release of Transcript Restriction set for 5/18/2015. (jab) (Entered: 02/17/2015)</p>
04/16/2015			CJA 21 as to Frederick V. McMenimen, III: Authorization to Pay Shaheen & Gordon, PA, Paralegal Services retained by William Christie for Offense Code 3600. Subtotals: Compensation: \$255.00, Travel Expenses: \$0.00, Other Expenses: \$0.00. Total Amount Paid for Expert Services: \$255.00. So Ordered by Judge Steven J. McAuliffe. Original document available in clerks office. (js) (Entered: 04/16/2015)
05/15/2015			CJA 20 as to Frederick V. McMenimen, III: Authorization to Pay William Christie, Esq. for Criminal Case representation for Offense Code 3600. Total Amount Paid this Voucher: \$25,677.50. Certified by USDC Judge Steven J. McAuliffe on 4/16/2015. Approved by USCA Judge William J. Kayatta, Jr. on 5/6/2015. Original document available in clerks office. (js) (Entered: 05/15/2015)
10/26/2017	<u>95</u>		ORDER as to Frederick V. McMenimen, III Re Return of <u>5</u> Posted Collateral. So Ordered by Judge Steven J. McAuliffe. (jbw) (Entered: 10/30/2017)
10/30/2017	<u>96</u>		

			Letter to U.S. Department of State from Deputy Clerk re: returning to it's custody posted collateral – U.S. Passport. (jbw) (Entered: 10/30/2017)
10/30/2017			RECEIPT for Collateral returned as to Frederick V. McMenimen, III re: <u>11</u> Collateral Receipt. (dt) (Entered: 07/25/2018)
11/06/2017	<u>97</u>		NOTICE of Acknowledgment of Return of Collateral re <u>5</u> Collateral Receipt as to Frederick V. McMenimen, III. (jbw) (Entered: 11/06/2017)
10/23/2018	<u>98</u>	16	Probation Jurisdiction Transferred to Massachusetts as to Frederick V. McMenimen, III. Transmitted Transfer of Jurisdiction form, with copies of the charging document, judgment and docket sheet. (lml) (Entered: 10/24/2018)

PROB 22
(Rev. 2/88)U.S. DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

DOCKET NUMBER (Tran. Court)

12-CR-130-01-SM

TRANSFER OF JURISDICTION

OCT 23 2018

FILED

DOCKET NUMBER (Rec. Court)

18cr10369

NAME AND ADDRESS OF PROBATIONER/SUPERVISED RELEASEE Frederick V. McMenimen, III Massachusetts	DISTRICT	DIVISION	
	DISTRICT OF NEW HAMPSHIRE		
	NAME OF SENTENCING JUDGE Honorable Steven J. McAuliffe		
	DATES OF PROBATION/ SUPERVISED RELEASE	FROM 10/04/2017	TO 10/03/2020

OFFENSE

Count 4: Mail Fraud, in violation of 18 U.S.C. § 1341
 Count 27: Money Laundering, in violation of 18 U.S.C. § 1957
 Counts 29-31: Federal Income Tax Evasion, in violation of 26 U.S.C. § 7201

PART 1 - ORDER TRANSFERRING JURISDICTION

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW HAMPSHIRE

IT IS HEREBY ORDERED that, pursuant to 18 U.S.C. § 3605, the jurisdiction of the probationer or supervised releasee named above be transferred with the records of this Court to the United States District Court for the District of Massachusetts upon that Court's order of acceptance of jurisdiction. This Court hereby expressly consents that the period of probation or supervised release may be changed by the District Court to which this transfer is made without further inquiry of this court.*



Date



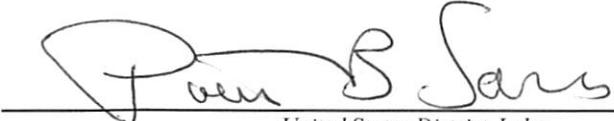
United States District Judge

*This sentence may be deleted in the discretion of the transferring Court.

PART 2 - ORDER ACCEPTING JURISDICTION

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MASSACHUSETTS

IT IS HEREBY ORDERED that jurisdiction over the above-named probationer/supervised releasee be accepted and assumed by this Court from and after the entry of this order.



Effective Date

United States District Judge

DOCKETED



**UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE**

UNITED STATES OF AMERICA)
)
)
)
v.)
)
FREDERICK V. MCMENIMEN, III,)
A/K/A “RICK MCMENIMEN,”)
)
)
Defendant.)

Case No. 1:12-CR-130-01-SM

INDICTMENT

The Grand Jury charges:

**COUNTS ONE THROUGH FIVE
18 U.S.C. § 1341: Mail Fraud**

1. At all relevant times, the defendant,

**FREDERICK V. MCMENIMEN, III,
A/K/A “RICK MCMENIMEN,”**

held himself out as a financial consultant and financial planner. From approximately, September 3, 2007 to October 7, 2011, the defendant was employed as a salesman by a nationally- known insurance and investment brokerage firm at its Portsmouth, N.H., branch office.

2. Beginning in approximately October 2008, the defendant fraudulently solicited more than \$1 million in purported investments from certain financial advisory customers. Each of the customers was an elderly widow whose family had a long-standing personal relationship with the defendant’s wife and/or mother. Each was widowed, financially unsophisticated and placed great trust in the defendant to handle her

financial affairs with little or no oversight on her part. Each of the customers resided in New Hampshire.

3. To finance the fraudulent investments, the defendant advised both customers to liquidate existing life insurance annuities or other legitimate investments. The checks representing the proceeds of the liquidated investments – which constituted all or at least substantial portions of the life savings of each customer or inheritances that the customers had received – were delivered to the customers at their New Hampshire homes by mail or by commercial overnight delivery service.

4. The customers deposited the proceeds into their checking accounts. At the defendant's instruction, the customers then wrote checks payable to "PSB," which the defendant falsely led them to believe was another legitimate, safe investment vehicle that would generate a better return than the liquidated investments. In actuality, PSB was simply a shorthand reference to a defunct retail sporting goods business, PSB Sports LLC, that the defendant had once owned and operated. The customers handed their checks to PSB over to the defendant, usually when the defendant came to visit them at their homes.

5. Between October 27, 2008, and October 2011, the defendant successfully induced the customers to write approximately seventeen checks payable to PSB in the aggregate approximate amount of \$1,033,500. The defendant did not invest that money as he had led his clients to believe he would and, instead, spent it for his own personal benefit.

6. The defendant first deposited each check into one of two business checking accounts maintained in the name PSB Sports LLC. (Many of those deposits were made at a bank branch located in Kittery, Maine.) Generally, after depositing the checks from his customers into one of the two PSB accounts, the defendant transferred the proceeds into a nominee bank account maintained in the name of a close relative. The defendant generally accomplished the transfer of funds to his relative's account by purchasing cashier's or treasurer's checks with funds from one of the PSB accounts and depositing those cashier's or treasurer's checks into his relative's account.

7. At the defendant's request, his relative pre-signed one or more books of blank checks to allow the defendant easy access to the funds he had deposited to the relative's account. From time to time, the defendant then completed a pre-signed check drawn against the relative's account and negotiated it, generally for his own personal benefit.

8. Specifically, the defendant wrote, and typically deposited to his own personal checking account, approximately ninety-nine checks drawn against his relative's account and payable to himself. He then used those funds to pay (1) more than \$134,000 on his home mortgage; (2) \$31,718 for docking and yacht utilities; (3) over \$120,000 for his children's private school and college tuition; and (4) about \$350,000 in credit card payments. The transactions from which the credit card debt was derived were largely personal in nature.

9. The defendant did not report the funds he expended for his personal benefit on either his federal income tax returns or in applications for student financial aid for his children.

10. From on or about October 23, 2008, to in or about October 2011, in the District of New Hampshire and elsewhere, the defendant,

**FREDERICK V. MCMENIMEN, III,
A/K/A “RICK MCMENIMEN,”**

with the intent to defraud, devised and willfully participated in, with knowledge of its fraudulent nature the above-described scheme and artifice to defraud and to obtain money and property by materially false and fraudulent pretenses, representations, and promises.

11. On or about the below listed dates, in the District of New Hampshire, for the purpose of executing or attempting to execute the above-described scheme and artifice to defraud and deprive, the defendant knowingly caused to be delivered by mail and a private and commercial interstate carrier according to the direction thereon at the place at which it was directed to be delivered by the person to whom it was addressed the following matters:

<u>COUNT</u>	<u>DATE</u>	<u>METHOD</u>	<u>SENDER</u>	<u>RECIPIENT</u>
ONE	October 7, 2008	USPS	Fidelity & Guaranty Life Insurance Company	S.G.W.
TWO	April 14, 2010	USPS	Aviva Life and Annuity Company	J.B.
THREE	December 17, 2010	USPS	Aviva Life and Annuity Company	S.G.W.
FOUR	March 1, 2011	USPS	Aviva Life and Annuity Company	S.G.W.
FIVE	June 7, 2011	UPS	Aviva Life and Annuity Company	J.B.

All in violation of Title 18, United States Code, Section 1341.

COUNTS SIX THROUGH EIGHTEEN
18 U.S.C. § 2314: Interstate Transportation of Goods Taken by Fraud

1. On or about the below listed dates, in the District of New Hampshire and elsewhere, the defendant,

**FREDERICK V. MCMENIMEN, III,
A/K/A "RICK MCMENIMEN,"**

did unlawfully transport and cause to be transported in interstate commerce from various locations in the State of New Hampshire, to the Town of Kittery, State of Maine, the below listed checks:

COUNT	DATE	VALUE	PAYOR	DRAWEE BANK
SIX	August 17, 2009	\$ 50,000.00	S.G.W.	Bank of America
SEVEN	October 20, 2009	\$ 60,000.00	S.G.W.	Bank of America
EIGHT	November 13, 2009	\$ 30,000.00	S.G.W.	Bank of America
NINE	January 19, 2010	\$ 60,000.00	S.G.W.	Bank of America
TEN	April 2, 2010	\$ 33,000.00	J.B. and C.L.	Anheuser Busch Employee C.U.
ELEVEN	April 6, 2010	\$ 60,000.00	S.G.W.	Bank of America
TWELVE	April 22, 2010	\$ 28,000.00	G. and J.B.	TD Bank
THIRTEEN	June 8, 2010	\$ 95,000.00	S.G.W.	Bank of America
FOURTEEN	August 31, 2010	\$ 24,000.00	J.B. and C.L.	Anheuser Busch Employee C.U.
FIFTEEN	November 30, 2010	\$ 49,000.00	S.G.W.	Bank of America
SIXTEEN	December 31, 2010	\$ 19,500.00	S.G.W.	Bank of America
SEVENTEEN	March 22, 2011	\$150,000.00	Bank of America	Bank of America
EIGHTEEN	June 22, 2011	\$100,000.00	G. and J.B.	TD Bank

knowing that each of said checks contained at least \$5,000 of funds that had been stolen, converted, and taken by fraud.

All in violation of Title 18, United States Code, Section 2314.

COUNTS NINETEEN THROUGH TWENTY-EIGHT
18 U.S.C. § 1957: Money Laundering

1. On or about the dates set forth below, in the District of New Hampshire, and elsewhere, the defendant,

FREDERICK V. MCMENIMEN, III,
A/K/A “RICK MCMENIMEN,”

did knowingly engage and attempt to engage in the following monetary transactions by through or to a financial institution, affecting interstate or foreign commerce, in criminally derived property of a value greater than \$10,000, that is the deposit of monetary instruments, such property having been derived from a specified unlawful activity, that is, Mail Fraud in violation of Title 18, United States Code, Section 1341, and Interstate Transportation of Stolen Property in violation of Title 18, United States Code, Section 2314:

COUNT	DATE	AMOUNT	MONETARY TRANSACTION
NINETEEN	August 26, 2009	\$ 30,210.49	deposit to Citizens Bank acct # 4386
TWENTY	September 4, 2009	\$ 37,000.00	deposit to Citizens Bank acct # 4386
TWENTY-ONE	October 30, 2009	\$ 58,000.00	deposit to Citizens Bank acct # 4386
TWENTY-TWO	February 22, 2010	\$ 60,000.00	deposit to Citizens Bank acct # 4386
TWENTY-THREE	April 15, 2010	\$ 90,000.00	deposit to Citizens Bank acct # 4386
TWENTY-FOUR	May 28, 2010	\$ 29,000.00	deposit to Citizens Bank acct # 4386
TWENTY-FIVE	June 17, 2010	\$ 75,000.00	deposit to Citizens Bank acct # 4386
TWENTY-SIX	December 2, 2010	\$120,000.00	deposit to Citizens Bank acct # 2188
TWENTY-SEVEN	March 28, 2011	\$135,000.00	deposit to Citizens Bank acct # 4386
TWENTY-EIGHT	October 28, 2011	\$100,000.00	deposit to Citizens Bank acct # 2188

All in violation of Title 18, United States Codes, Sections 1957 and 2.

COUNT TWENTY-NINE
26 U.S.C. § 7201: Federal Income Tax Evasion (2008)

1. On or about October 15, 2009, in the District of New Hampshire, the defendant,

FREDERICK V. MCMENIMEN, III,
A/K/A “RICK MCMENIMEN,”

a resident of Exeter, New Hampshire, who during the calendar year 2008 was married, did willfully attempt to evade and defeat a large part of the income tax due and owing by him and his spouse to the United States of America for the calendar year 2008, by preparing and causing to be prepared, and by signing and causing to be signed, a false and fraudulent joint U.S. Individual Income Tax Return, Form 1040, on behalf of himself and his spouse, which was filed with the Internal Revenue Service. In that return, it was stated that their joint taxable income for the calendar year was the sum of \$61,119 and that the amount of tax due and owing thereon was the sum of \$14,772 . In fact, as he then and there knew, their taxable income for the calendar year was substantially in excess of the amount stated on the return, and, upon the additional taxable income, a substantial additional tax was due and owing to the United States of America.

In violation of Title 26, United States Code, Section 7201.

COUNT THIRTY

26 U.S.C. § 7201: Federal Income Tax Evasion (2009)

1. On or about October 15, 2010, in the District of New Hampshire, the defendant,

**FREDERICK V. MCMENIMEN, III,
A/K/A “RICK MCMENIMEN,”**

a resident of Exeter, New Hampshire, who during the calendar year 2009 was married, did willfully attempt to evade and defeat a large part of the income tax due and owing by him and his spouse to the United States of America for the calendar year 2009, by preparing and causing to be prepared, and by signing and causing to be signed, a false and fraudulent joint U.S. Individual Income Tax Return, Form 1040, on behalf of himself and his spouse, which was filed with the Internal Revenue Service. In that return, it was stated that their joint taxable income for the calendar year was the sum of \$61,458 and that the amount of tax due and owing thereon was the sum of \$16,236. In fact, as he then and there knew, their taxable income for the calendar year was substantially in excess of the amount stated on the return, and, upon the additional taxable income, a substantial additional tax was due and owing to the United States of America.

In violation of Title 26, United States Code, Section 7201.

COUNT THIRTY-ONE
26 U.S.C. § 7201: Federal Income Tax Evasion (2010)

1. On or about October 15, 2011, in the District of New Hampshire, the defendant,

FREDERICK V. MCMENIMEN, III,
A/K/A “RICK MCMENIMEN,”

a resident of Exeter, New Hampshire, who during the calendar year 2010 was married, did willfully attempt to evade and defeat a large part of the income tax due and owing by him and his spouse to the United States of America for the calendar year 2010, by preparing and causing to be prepared, and by signing and causing to be signed, a false and fraudulent joint U.S. Individual Income Tax Return, Form 1040, on behalf of himself and his spouse, which was filed with the Internal Revenue Service. In that return, it was stated that their joint taxable income for the calendar year was the sum of \$45,388 and that the amount of tax due and owing thereon was the sum of \$7252 . In fact, as he then and there knew, their taxable income for the calendar year was substantially in excess of the amount stated on the return, and, upon the additional taxable income, a substantial additional tax was due and owing to the United States of America.

In violation of Title 26, United States Code, Section 7201.

A TRUE BILL

October 3, 2012

/s/ Foreperson

Foreperson

JOHN P. KACAVAS
United States Attorney

By: /s/ William E. Morse
William E. Morse
Assistant United States Attorney

UNITED STATES DISTRICT COURT

DISTRICT OF NEW HAMPSHIRE

UNITED STATES OF AMERICA

v.

Frederick V. McMenimen, III

JUDGMENT IN A CRIMINAL CASE

(For Offenses Committed On or After November 1, 1987)

Case Number: 12-cr-130-01-SM

Bjorn Lange, Esq. and William Christie, Esq.

Defendant's Attorneys

THE DEFENDANT:

pleaded guilty to count(s): 4, 27, 29 through 31 of the Indictment.
 pleaded nolo contendere to count(s) __ which was accepted by the court.
 was found guilty on count(s) __ after a plea of not guilty.

ACCORDINGLY, the court has adjudicated that the defendant is guilty of the following offense(s):

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Date Offense Concluded</u>	<u>Count Number(s)</u>
18 U.S.C. § 1341	Mail Fraud	March 1, 2011	4
18 U.S.C. § 1957	Money Laundering	March 28, 2011	27
26 U.S.C. § 7201	Federal Income Tax Evasion	October 15, 2011	29 - 31

The defendant is sentenced as provided in pages 2 through 6 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

The defendant has been found not guilty on count(s) __ and is discharged as to such count(s).
 Count(s) dismissed on motion of the United States: Counts 1-3, 5-26; and 28.

IT IS FURTHER ORDERED that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant shall notify the court and United States Attorney of any material change in the defendant's economic circumstances.

February 11, 2015

Date of Imposition of Judgment

Signature of Judicial Officer

Steven J. McAuliffe
United States District Judge

Name & Title of Judicial Officer

Date

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of 42 months.

Said term of 42 months is on each of Counts 4, 27, and 29 through 31, all such terms to be served concurrently.

The court makes the following recommendations to the Bureau of Prisons:

that the defendant be considered for placement at FMC, Devens, MA.

The defendant is remanded to the custody of the United States Marshal.

The defendant shall surrender to the United States Marshal for this district.

on __ at __.

as notified by the United States Marshal.

The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

before __ on __.

as notified by the United States Marshal.

as notified by the Probation or Pretrial Services Officer.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____

at _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By: _____
Deputy U.S. Marshal

CASE NUMBER: 12-cr-130-01-SM

DEFENDANT: Frederick V. McMenimen, III

Judgment - Page 3 of 6

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of Three (3) Years.

Said term of three years in on each of Counts 4, 27, and 29 through 31, all such terms to run concurrently.

The defendant shall report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state, or local crime.

The defendant shall not illegally possess a controlled substance.

Pursuant to 42 U.S.C. § 14135a, the defendant shall submit to DNA collection while incarcerated in the Bureau of Prisons, or at the direction of the U.S. Probation Office.

For offenses committed on or after September 13, 1994:

The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, not to exceed 72 drug tests per year of supervision.

The above drug testing condition is suspended based on the court's determination that the defendant poses a low risk of future substance abuse. (Check if applicable)

The defendant shall not possess a firearm, destructive device, or any other dangerous weapon.

If this judgment imposes a fine or a restitution obligation, it shall be a condition of supervised release that the defendant pay any such fine or restitution that remains unpaid at the commencement of the term of supervised release in accordance with the Schedule of Payments set forth in the Criminal Monetary Penalties sheet of this judgment.

The defendant shall comply with the standard conditions that have been adopted by this court (set forth below). The defendant shall also comply with the additional conditions on the attached page.

STANDARD CONDITIONS OF SUPERVISION

- 1) The defendant shall not leave the judicial district without permission of the court or probation officer;
- 2) The defendant shall report to the probation officer in a manner and frequency directed by the court or probation officer;
- 3) The defendant shall answer truthfully all inquiries by the probation officer and follow instructions of the probation officer;
- 4) The defendant shall support his or her dependents and meet other family responsibilities;
- 5) The defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training or other acceptable reasons;
- 6) The defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) The defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) The defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) The defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer;
- 10) The defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) The defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) The defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court;
- 13) As directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

CASE NUMBER: 12-cr-130-01-SM

DEFENDANT: Frederick V. McMenimen, III

Judgment - Page 4 of 6

SPECIAL CONDITIONS OF SUPERVISION

In addition, the defendant shall comply with the following special conditions:

The defendant shall participate in a program of mental health treatment, as directed by the probation officer, until such time as the defendant is released from the program by the probation officer. The defendant shall pay for the cost of treatment to the extent he is able as determined by the probation officer.

The defendant shall not incur new credit charges or open additional lines of credit without the approval of the probation officer unless he is in compliance with the installment payment schedule.

The defendant shall provide the probation officer with access to any requested financial information.

The defendant shall apply all monies received from income tax refunds, lottery winnings, judgments, and/or any other anticipated or unexpected financial gains to the outstanding court-ordered financial obligation.

The defendant shall file amended or original individual income tax returns with the Internal Revenue Service for tax years 2008, 2009, and 2010, and timely file truthful individual income tax returns with the IRS that are due during the term of supervised release.

The defendant shall cooperate fully with the IRS in the ascertainment, computation, and payment of his true federal income tax liabilities for tax years 2008, 2009, and 2010, with such cooperation to include (1) providing to the IRS all financial information necessary to determine the defendant's tax liabilities for those years and his current financial ability to pay; (2) consenting to the disclosure to the IRS's Examination and Collections Division all information relating to the defendant's financial affairs in the possession or custody of the United States, including grand jury materials otherwise protected by Rule 6(e) of the Federal Rules of Criminal Procedure; and (3) making a good faith effort to pay all delinquent or additional taxes, interest, and penalties, including the payment of such taxes stemming from the offense conduct and relevant conduct in a lump sum, should the IRS determine he is financially able to make such a lump sum payment, or entering into an agreement to pay such taxes stemming from the offense conduct and relevant conduct by installments during the term of supervised release.

Upon a finding of a violation of probation or supervised release, I understand that the court may: (1) revoke supervision; (2) extend the term of supervision; and/or (3) modify the conditions of supervision.

These conditions have been read to me. I fully understand the conditions and have been provided a copy of them.

(Signed)

Defendant

Date

U.S. Probation Officer/ Designated Witness

Date

CASE NUMBER: 12-cr-130-01-SM

DEFENDANT: Frederick V. McMenimen, III

Judgment - Page 5 of 6

CRIMINAL MONETARY PENALTIES

The defendant shall pay the following total criminal monetary penalties in accordance with the schedule of payments set forth on Sheet 6.

Totals:	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
	\$500.00		\$1,443,749.00

The determination of restitution is deferred until . An *Amended Judgment in a Criminal Case* (AO 245C) will be entered after such determination.

The defendant shall make restitution (including community restitution) to the following payees in the amount listed.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all non-federal victims must be paid in full prior to the United States receiving payment.

<u>Name of Payee</u>	<u>**Total Amount of Loss</u>	<u>Amount of Restitution Ordered</u>	<u>Priority Order or % of Pymnt</u>
Susan Wagstaff	\$583,500.00		
Prudential Insurance	\$385,000.00		
Patricia Mekshes	\$290,249.00		
Janet Beals	\$185,000.00		
TOTALS:	\$1,443,749.00	\$ 0.00	

It is further ordered that, pursuant to 18 U.S.C. § 3664(j)(1), restitution shall be paid to Susan Wagstaff, Patricia Mekshes, and Janet Beals before restitution is paid to Prudential Insurance.

With respect to the restitution to individual victims, any payment made that is not payment in full shall be divided proportionately among the persons named.

If applicable, restitution amount ordered pursuant to plea agreement.

The defendant shall pay interest on any fine or restitution of more than \$2,500, unless the fine or restitution is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. §3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. §3612(g).

The court determined that the defendant does not have the ability to pay interest, and it is ordered that:

The interest requirement is waived for the fine restitution.

The interest requirement for the fine and/or restitution is modified as follows:

Case 1:12-cr-00130-SM Document 89 Filed 10/23/15 Page 6 of 64

Case 1:12-cr-00130-SM Document 89 Filed 10/23/15 Page 6 of 64

Case 1:12-cr-00130-SM Document 89 Filed 10/23/15 Page 6 of 64

Case 1:12-cr-00130-SM Document 89 Filed 10/23/15 Page 6 of 64

Case 1:12-cr-00130-SM Document 89 Filed 10/23/15 Page 6 of 64

Case 1:12-cr-00130-SM Document 89 Filed 10/23/15 Page 6 of 64

Case 1:12-cr-00130-SM Document 89 Filed 10/23/15 Page 6 of 64

Case 1:12-cr-00130-SM Document 89 Filed 10/23/15 Page 6 of 64

Case 1:12-cr-00130-SM Document 89 Filed 10/23/15 Page 6 of 64

Case 1:12-cr-00130-SM Document 89 Filed 10/23/15 Page 6 of 64

Case 1:12-cr-00130-SM Document 89 Filed 10/23/15 Page 6 of 64

Case 1:12-cr-00130-SM Document 89 Filed 10/23/15 Page 6 of 64

Case 1:12-cr-00130-SM Document 89 Filed 10/23/15 Page 6 of 64

Case 1:12-cr-00130-SM Document 89 Filed 10/23/15 Page 6 of 64

Case 1:12-cr-00130-SM Document 89 Filed 10/23/15 Page 6 of 64

Case 1:12-cr-00130-SM Document 89 Filed 10/23/15 Page 6 of 64

Case 1:12-cr-00130-SM Document 89 Filed 10/23/15 Page 6 of 64

Case 1:12-cr-00130-SM Document 89 Filed 10/23/15 Page 6 of 64

Case 1:12-cr-00130-SM Document 89 Filed 10/23/15 Page 6 of 64

SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties shall be due as follows:

A Lump sum payment of \$ due immediately, balance due

- not later than ___, or
- in accordance with C, D, or E below; or

B Payment to begin immediately (may be combined with C, D, or E below); or

C Payment in installments of \$ over a period of ___, to commence ___ days after release from imprisonment to a term of supervision; or

D Within thirty days of the commencement of supervision, payments shall be made in equal monthly installments of \$250.00 during the period of supervised release, and thereafter.

E Special instructions regarding the payment of criminal monetary penalties:

Upon commencement of supervision, the probation officer shall review the defendant's financial circumstances and, if necessary, recommend a revised payment schedule on any outstanding balance for approval by the Court.

Criminal monetary payments are to be made to Clerk, U.S. District Court, 55 Pleasant Street, Room 110, Concord, NH 03301. Payments shall be in cash or in a bank check or money order made payable to Clerk, U.S. District Court. Personal checks are not accepted.

Unless the court has expressly ordered otherwise in the special instructions above, if this judgment imposes a period of imprisonment, payment of criminal monetary penalties shall be due during the period of imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are to be made payable to the clerk of the court, unless otherwise directed by the court, the probation officer, or the United States Attorney.

The defendant will receive credit for all payments previously made toward any criminal monetary penalties imposed.

Joint and Several

Defendant Name	Case Number	Joint and Several Amount
----------------	-------------	--------------------------

The defendant shall pay the cost of prosecution.

The defendant shall pay the following court cost(s):

The defendant shall forfeit the defendant's interest in the following property to the United States: